

# HUD's Loss Mitigation Program

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## Helping Homeowners

HUD's Loss Mitigation Program has helped thousands of borrowers stay in their homes after facing a period of financial difficulty. In today's economic times, this program is more important than ever.

### Standard Loss Mitigation Tool Overview:

#### Home Retention Options

##### Special Forbearance

- A special forbearance is a written agreement between a mortgagor and a mortgagee that consists of a plan enabling the mortgagee to reinstate their loan
- Loan must be due and unpaid for three (3) months, but not more than 12 months due and unpaid
- Agreement must be in writing and state previously missed mortgage payments
- Possible option for an unemployed mortgagor

##### Loan Modification

- A loan modification provides for a permanent change in one or more of the terms of a mortgagor's loan, which allows for the loan to be reinstated and results in a payment the mortgagor can afford.
- Loan must be due and unpaid for three (3) months AND be at least 12 months old
- Lender must ensure loan modification remains in the first lien position
- Mortgagor must have stabilized surplus income sufficient to support the loan modification mortgage

##### Partial Claim

- To complete a partial claim, the mortgagee will advance funds on behalf of a mortgagor in an amount necessary to reinstate a delinquent loan (not to exceed the equivalent of 12 months PITI).
- A subordinate mortgage and note, in the amount of the advance, is prepared in the name of the Secretary of HUD.
- Minimum four (4) months delinquent but not more than 12 months delinquent.
- Mortgagor must not qualify for a Special Forbearance or a Loan Modification

#### Six Powerful Loss Mitigation Tools

HUD's Loss Mitigation Program gives lenders six powerful tools to enable them to help homeowners. These tools give lenders flexibility in working with the homeowner and the power to act without prior authorization from HUD.

##### Home Retention Tools:

1. Special Forbearance
2. Loan Modification
3. Partial Claim
4. FHA-HAMP

##### Disposition Tools:

5. Preforeclosure Sale Program
6. Deed-in-Lieu of Foreclosure

#### FHA-Home Affordable Modification Program (FHA-HAMP)

- FHA-HAMP is an enhanced loss mitigation option that combines a partial claim with a loan modification
- Brings the borrower's payment down to 31% of their gross monthly income
- Provides for greater loan affordability by deferring up to 30% of the unpaid principal balance
- Available during early delinquency
- Option for borrowers who are at least one monthly payment delinquent but no more than 12 months delinquent
- Only available to a borrower who does not qualify for a Special Forbearance, Loan Modification or a Partial Claim
- Must result in a 30 year fixed rate mortgage
- Borrower must complete a three month trial payment plan

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## Standard Loss Mitigation Tool Overview:

### Disposition Options

#### Preforeclosure Sale

- A Preforeclosure sale allows a mortgagor in default to sell his/her home and use the sale proceeds to satisfy the mortgage debt, even if the proceeds are less than the amount owed.
- Outright sale of the mortgaged property to a third party must be an "arms length" transaction
- Mortgagor must be 31 days or more delinquent at the time of the Preforeclosure Sale closing
- HUD allows all reasonable costs of the sale including up to 6% sales commission, customary closing costs and 1% of buyer's mortgage amount for all transactions that involve a new FHA-insured mortgage
- Available only if borrower does not qualify for a home retention loss mitigation option

#### Deed-in-Lieu of Foreclosure

- A Deed-in-Lieu of Foreclosure allows a mortgagor who is in default and who does not qualify for any other HUD loss mitigation option, to sign the house back over to the mortgage company.
- Mortgagor must be a minimum of 31 days delinquent at the time of the Deed-in-Lieu is executed
- Mortgagee will develop a written Deed-in-Lieu of Foreclosure Agreement, which will contain all of the conditions under which the deed will be accepted. It is to be signed by both the mortgagor and mortgagee.

**FOR MORE INFORMATION, CHECK  
OUT THE NSC'S WEBSITE AT:**

**[WWW.HUD.GOV/OFFICES/HSG/SFH/NSC/NSCHOME.CMF](http://WWW.HUD.GOV/OFFICES/HSG/SFH/NSC/NSCHOME.CMF)**

For complete requirements on the loss mitigation programs discussed here, please see the following mortgagee letters:

- General Loss Mitigation Program
  - ML 2000-05
- Special Forbearance
  - 2002-17
- Loan Modification
  - 2000-05
  - 2008-21
- Partial Claim
  - 2003-19
  - 2008-21
- FHA-HAMP
  - ML 2009-23
- Preforeclosure Sale
  - ML 2003-19
  - ML 2008-43
- Deed-in-Lieu of Foreclosure
  - ML 2000-05
  - ML 2002-13

### **HUD's Loss Mitigation Program: General Requirements**

- HUD does not have a "hardship" test. There is no single test for determining eligibility – every borrower is looked at as an individual
- Owner-Occupant Exceptions for the Preforeclosure Sale and Deed-in-Lieu of Foreclosure Options
- Cannot have another FHA insured loan or Secretary-held mortgage
- Available to homeowners who have a verifiable reduction in income or increase in expenses and can no longer sustain their mortgage payment
- Lender participation in the Loss Mitigation Program is not optional
- Available to borrowers with FHA-insured mortgages



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